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February 27, 2015

TO: Mayor Michael D. Antonovich
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Supervisor Sheila Kuehl
Supervisor Don Knabe

FROM: Sachi A. Hamai
Interim Chief Executive Officer

SACRAMENTO UPDATE – REDEVELOPMENT LEGISLATION

Executive Summary

This memorandum contains reports on the following:

- **Pursuit of County Position on a State Budget Trailer Bill Related to the Redevelopment Dissolution Process.** As part of the Governor's FY 2015-16 January Budget, the California Department of Finance (DOF) has released a budget trailer bill that would facilitate the transition of the DOF away from its current detailed role in the redevelopment agency (RDA) dissolution process. Therefore, unless otherwise directed by the Board, consistent with existing policy to support proposals which facilitate the successful implementation of the requirements of ABx1 26 (Chapter 5, Statutes of 2011) and AB 1484 (Chapter 26, Statutes of 2012), and consistent with existing policy to oppose proposals that would eliminate or reduce or delay the flow of any source of funds allocated to taxing entities by the redevelopment dissolution statutes before redevelopment successor agencies retire or pay off all debts, dispose of all remaining assets, and/or terminate their existence, **the Sacramento advocates will take a support in concept position on the Department of Finance budget trailer bill related to the redevelopment dissolution process.**

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- **Redevelopment Legislation of County Interest:**

- **AB 2 (Alejo)** – related to creation of a community revitalization authority to carry out Community Redevelopment Law and allow for the issuance of bonds serviced by tax increment revenues.
- **AB 204 (O'Donnell)** – related to consolidation of redevelopment oversight boards in the County of Los Angeles by July 1, 2016.
- **SB 45 (Mendoza)** – related to authorizing local governments to use tax increment financing for economic development.

Background

Community Redevelopment Law authorizes the establishment of redevelopment agencies in communities to address the effects of blight projects financed by the issuance of bonds serviced by tax increment revenues derived from the project area. Existing law dissolved redevelopment agencies and community development agencies, as of February 1, 2012, and provides for the designation of successor agencies to wind-down the affairs of the dissolved redevelopment agencies, subject to review by oversight boards, and to, among other things, make payments due for enforceable obligations and to perform obligations required pursuant to any enforceable obligation. Current law also requires that all successor agency oversight boards within a county be consolidated into a single countywide oversight board by July 1, 2016.

Existing law provides for various economic development programs that foster community sustainability and community and economic development initiatives throughout the State.

Pursuit of County Position on a State Budget Trailer Bill Related to the Redevelopment Dissolution Process

On February 18, 2015, the California Department of Finance (DOF) released proposed budget trailer bill language related to the redevelopment dissolution process. As previously reported, the Administration intends to gradually transition the State away from the current detailed role in the redevelopment agency (RDA) dissolution process and to: 1) minimize the potential erosion of property tax residuals being returned to local affected taxing entities; 2) clarify and refine various provisions in statute to eliminate ambiguity and make the statutes operate more successfully for all parties; and 3) maintain the expeditious wind-down of former RDA activities while adding new incentives for substantial compliance with the law.

The trailer bill language includes numerous changes to the dissolution process, most notably:

- 1) Convert to an annual Recognized Obligations Payment Schedule (ROPS), beginning July 1, 2016, rather than the current bi-annual ROPS submission;
- 2) Designate county auditor-controllers as staff for the consolidated countywide oversight boards, beginning on July 1, 2016;
- 3) Establish a limitation on former loans between a city or county and a former redevelopment agency;
- 4) Set limitations on: a) successor agencies' administrative cost allowances and expenditures; b) how legal fees will be paid; c) successor agencies' ability to create enforceable obligations for winding-down purposes; and d) successor agencies' ability to re-enter into agreements with a city or county; and
- 5) Specify that once a successor agency's enforceable obligations are retired or paid off, it would end pass-through payment obligations and deposits into the successor agencies Redevelopment Property Tax Trust Fund.

Attached is a summary of all the proposed changes in the trailer bill language.

The Department of Finance proposal would facilitate the wind-down of former RDA activities by streamlining the review of enforceable obligations into an annual process, thereby expediting the return of property tax residuals to local affected taxing entities. Therefore, unless otherwise directed by the Board, consistent with existing policy to support proposals which facilitate the successful implementation of the requirements of ABx1 26 (Chapter 5, Statutes of 2011) and AB 1484 (Chapter 26, Statutes of 2012), and consistent with existing policy to oppose proposals that would eliminate or reduce or delay the flow of any source of funds allocated to taxing entities by the redevelopment dissolution statutes before redevelopment successor agencies retire or pay off all debts, dispose of all remaining assets, and/or terminate their existence, **the Sacramento advocates will take a support in concept position on the Department of Finance budget trailer bill related to the redevelopment dissolution process. However, if the bill language is amended in a way that would reduce or affect property tax residuals distributed to the affected taxing entities, the Sacramento advocates would oppose those provisions.**

This budget proposal is scheduled to be heard by the Assembly Budget Subcommittee on State Administration on March 3, 2015.

This office will continue to work with the Auditor-Controller, County Counsel, and the County's Redevelopment Workgroup and will apprise the Board of any developments on this legislation.

Legislation of County Interest

AB 2 (Alejo), which as introduced on December 1, 2014, would state the intent of the Legislature to enact legislation that would authorize certain local agencies to form a community revitalization authority within a community revitalization and investment area, as defined, to carry out provisions of the Community Redevelopment Law in that area for purposes related to, among other things, infrastructure, affordable housing, and economic revitalization and to provide for the financing of these activities by, among other things, the issuance of bonds serviced by tax increment revenues.

While only a spot bill at this time, it is expected that AB 2 will be substantially similar to AB 2280 (Alejo) of 2014, which would have allowed local governments to establish a Community Revitalization and Investment Authority (Authority) in a disadvantaged community to fund infrastructure projects, affordable housing, cleanup of contaminated properties under the Polanco Act, or development of or retrofit of industrial or manufacturing facilities. AB 2280 would have also allowed the Authority to collect tax increment only if an affected taxing entity agreed to and adopted a resolution affirming it would contribute its tax increment to the Authority. The measure was vetoed by the Governor, who stated it would unnecessarily vest the newly created Authorities in redevelopment law.

AB 2 is pending referral to a policy committee for hearing.

AB 204 (O'Donnell), which as introduced on January 29, 2015, would require an oversight board within the County of Los Angeles to continue to independently operate past the July 1, 2016, consolidation date, until its successor agency adopts a resolution dissolving the board. The bill would also make legislative findings and declarations as to the necessity of a special statute for the County of Los Angeles.

Currently, there are 71 oversight boards within the County's geographical boundary overseeing their respective successor agency's wind-down process. Each of these successor agencies are in various stages of the redevelopment dissolution process. AB 204 would require that all of these oversight boards consolidate into one countywide oversight board by July 1, 2016. That countywide oversight board would then be responsible for overseeing the remaining wind-down activities of all 71 successor agencies.

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AB 204 has been referred to the Assembly Local Government Committee and the Assembly Housing and Community Development Committee. Hearing dates have not been set.

SB 45 (Mendoza), which as introduced on December 12, 2014, is a spot bill and would state the intent of the Legislature to enact legislation that would authorize local governmental entities to use tax increment financing for the development of economic planning, infrastructure, and educational facilities.

SB 45 is pending referral to a policy committee for hearing.

This office, the Auditor-Controller, and County Counsel will analyze all redevelopment related bills introduced, as well the volume of work to be done related to the wind-down of all the successor agencies in the County, and report back to the Board on the potential impact of these bills.

Furthermore, the Sacramento advocates will work with the Department of Finance to ensure that the final draft of the redevelopment dissolution trailer bill will effectively expedite the redevelopment dissolution process while ensuring that property tax distributions to the affected taxing entities are maximized.

We will keep you advised.

SAH:JJ:MR
VE:AO:gl/ma

Attachment

c: All Department Heads
Legislative Strategist
Local 721
Coalition of County Unions
California Contract Cities Association
League of California Cities
City Managers Associations
Buddy Program Participants

Budget Trailer Bill Language Related to the Redevelopment Dissolution Process

On February 18, 2015, the Department of Finance (DOF) released budget trailer bill language (TBL) related to the redevelopment dissolution process. The TBL includes the following changes to the dissolution process:

- 1) Exempts the actions of the DOF in implementing the redevelopment dissolution statutes from the Administrative Procedures Act (this provision would apply retroactively to June 28, 2011) (Health and Safety Code § 34170.1);
- 2) Limits the administrative cost allowance, beginning on July 1, 2016, to up to three percent of the actual property tax distributed to the successor agency in the preceding fiscal year for payment of approved enforceable obligations, minus the successor agency's administrative cost allowance and City-former redevelopment agency (RDA) loan repayment (but not less than \$250,000 unless amount is reduced by the oversight board or by agreement between the successor agency and DOF) (§ 34171 (b)(3));
- 3) Limits a successor agency's administrative costs, beginning on July 1, 2016, to not more than fifty percent of the total Redevelopment Property Tax Trust Fund distributed to pay enforceable obligations in the previous fiscal year (this limitation does not apply to administrative costs paid from bond proceeds or grant funds) (§ 34171(b)(4));
- 4) Designates the sole payment source for litigation expenses related to challenges to the dissolution statutes and their implementation to the administrative cost allowance (i.e., they cannot be listed as enforceable obligations on the Recognized Obligation Payment Schedule, or ROPS) (§ 34171(b)(5); § 34171 (d)(1)(F));
- 5) Specifies that only amounts borrowed from, or owed to, a redevelopment agency's Low and Moderate Income Housing Fund (LMIHF) due to deferral, because RDA deposited less than the required twenty percent set-aside, or for Educational Revenue Augmentation Fund (ERAF) or Supplemental Educational Revenue Augmentation Fund (SERAF) are considered enforceable obligations for repayment to the housing successor's Low and Moderate Income Housing Asset Fund (this provision would apply retroactively to June 28, 2011) (§ 34171 (d)(1)(G));
- 6) Adds written agreements between the former RDA and a city or county entered into at the time of issuance of indebtedness obligations, but no later than June 27, 2011, for the refunding or refinancing of indebtedness obligations that existed prior to January 1, 2011, and solely for the purpose of securing or repaying those indebtedness obligations and entered into no later than February 28, 2011, as valid enforceable obligations (§ 34171 (d)(2));
- 7) Prohibits a city or county to loan a successor agency funds for project related expenses, thereby only allowing loans from a city or county to a successor agency to cover administrative costs or enforceable obligations, and only if the successor agency receives insufficient funds from the Redevelopment Property Tax Trust Fund (RPTTF) to pay for enforceable obligations during a ROPS period (this provision also sets the interest rate for these loans and subordinates them to payment of other enforceable obligations) (§ 34173 (h));

- 8) Requires a local housing authority that is acting as a housing successor agency to report on amounts a city or county received for loans or deferrals owed to the Low and Moderate Income Housing Fund in its annual financial audit (§ 34191.4 (b)(3)(A); § 34176.1 (f)(1));
- 9) Adds county auditor-controllers as entities that can require documents associated with enforceable obligations (§ 34177 (a)(2));
- 10) Transitions all successor agencies from a biannual Recognized Obligation Payment Schedules (ROPS) process to an annual ROPS process beginning July 1, 2016 (annual ROPS will be due on February 1st of each year; allows for the successor agency to submit one amendment to a DOF-approved ROPS, with oversight board approval) (§ 34177 (o));
- 11) Sets the date for DOF determinations about enforceable obligations listed on an annual ROPS to April 15th of each year (successor agencies may request a meet and confer within 5 business days of DOFs determination) (§ 34177 (o));
- 12) Clarifies that a city or county will be subject to civil penalties (\$10,000 per day) for late submission of a successor agency's ROPS only if the city or county is acting as the successor agency for the former RDA (§ 34177 (o)(2));
- 13) If a successor agency fails to submit its ROPS by the deadline, any creditor of the successor agency, DOF, or any affected taxing entity may request a writ of mandate to require the successor agency to immediately submit the ROPS (§ 34177 (o)(2));
- 14) Reduces a successor agency's maximum administrative cost by 25% for the ROPS period if the successor agency does not submit the ROPS within ten days of the deadline (§ 34177 (o)(2));
- 15) Further limits a successor agency's ability to create new enforceable obligations to only activities associated with winding-down the redevelopment agency (e.g., staff, administrative services, legal counsel, insurance) and specifically prohibits new enforceable obligations for planning, design, development, demolition, construction, construction financing, site remediation, site development or improvement, land clearance, seismic retrofit, and other similar work (this provision would apply retroactively to June 29, 2011) (§ 34177.3 (a) & (b));
- 16) Allows a successor agency to enter into or re-enter agreements with a city or county, with oversight board approval, only for hiring staff, acquiring necessary professional administrative services and legal counsel, and procuring insurance in connection with conducting the work of winding-down the RDA (this provision would apply retroactively to June 28, 2011) (§ 34178);
- 17) Designates county auditor-controllers as staff for the consolidated countywide oversight boards beginning on July 1, 2016 and provides for recovery of all associated costs associated with performing this functions from the RPTTF (§ 34179 (j));
- 18) Adds public parking lots, as defined, to list of assets constructed and used for governmental purposes that may be transferred, at the direction of the oversight board,

to the appropriate public jurisdiction pursuant to an existing agreement (§ 34181 (a)(1) & (a)(2));

- 19) Modifies the criteria to determine when a successor agency must request to formally dissolve the successor agency and sets timelines for how soon the oversight board must approve that request and submit it to DOF (§ 34187 (b) & (c));
- 20) Sets timeline and steps for the successor agency to take to dissolve once DOF has approved the successor agency's request to dissolve (§ 34187 (e)(1-2));
- 21) Adds a provision to cease all passthrough payment obligations and deposits to the RPTTF, once all enforceable obligations that have been approved on the ROPs have been retired or paid off (§ 34187(h));
- 22) Adds a provision to eliminate redevelopment plan time limits and tax increment caps but solely for the purpose of enforceable obligations associated with bonds (i.e., required debt service, reserve set-asides, and any other payments required under the indenture or similar documents governing the issuance of the outstanding bonds of the former redevelopment agency) (§ 34189 (a));
- 23) Prohibits a successor agency from reinstating loan agreements entered into by the former RDA and a city or county in instances where the RDA was required to pay or reimburse the city or county for the cost of services provided by, or obligations incurred under contracts with, third parties (§ 34191.4 (b)(2));
- 24) Allows a successor agency to submit a Last and Final ROPS for approval by the oversight board beginning August 1, 2015, provided that the successor agency only has debt related to administrative costs and enforceable obligations with defined payment schedules, those enforceable obligations have previously been listed on a ROPS and approved by DOF, and the successor agency is not party to any outstanding or unresolved litigation (§ 34191.6 (a)(1-3));
- 25) Provides a timeline for DOF review and approval of the Last and Final ROPS as well as requirements for information that must be included on the document (§ 34191.6 (b) & (c));
- 26) Requires that any revenues, interest and earnings of the successor agency not authorized for use pursuant to the a DOF-approved Last and Final ROPS, as well as proceeds from the disposition of property that is not necessary for the payment of enforceable obligations, must be distributed to the affected taxing entities (§ 34191.6 (c)(3)).